

### Remarks

New formal drawings are submitted in which the encirclements of the reference numerals have been eliminated and arrows have been inserted at the end of the lead lines for clarity.

The title of the specification has been amended to read A METHOD OF SIMULATED WAVE MASSAGE OF THE BODY.

Claims 1-8 stand rejected under 35 U.S.C. § 112 as being indefinite. The claims have been rewritten to provide an antecedent for "said body" and to further indicate the positioning of a transducer next to the body with the wave generation device causing the transducer to provide a signal which produces a vibration in the body and thereafter varying the frequency of the signal by scanning to move the location of the vibration from one body part to another. According it is believed that the indefiniteness of claims 1-8 has been remedied.

Claims 1-3 and 6-8 have been rejected under 35 U.S.C. § 102 (b) as being anticipated by Murtonen. Additionally, claims 1-3 and 5-7 have been rejected under 35 U.S.C. § 102 (b) as being anticipated by Skille. The claims as now written and particularly claim 1, indicate that the wave generation device is associated with a minimum of one transducer and that this transducer is located next to the body. The wave generation device further causes the transducer to provide a signal which in turn produces a vibration in the body. The frequency of this signal is varied by scanning which moves the location of the vibration from one body part to another body part through the use of a minimum of one transducer. Thus, the applicant's invention as now claimed makes use of a minimum of one transducer with the vibration being moved from one body part to the other such as in a massaging effect by varying the frequency through scanning or continuous movement.

As pointed out by the examiner in her summary of the interview, Skille, who the undersigned has been advised is a Music Therapist, utilizes specific frequencies generally in the range of 30-120 Hz with a specific frequency being designated to treat a specific ailment or part of the body. Skille adjusts the frequency in discrete or separate increments where the frequency remains constant for a selected duration. There is no suggestion of scanning or continuously varying the frequency in order to provide a moving or massaging effect. Skille is not concerned about movement of the vibration to produce a massaging effect but rather seeks to incorporate in selected speakers music with the signal. Where one would learn from any suggestion or teaching in Skille to move the vibration from one body part to another by scanning which produces a massaging effect is not apparent or suggested except perhaps by unpermitted hindsight.

The Murtonen reference rejects the notion of any form of continuous vibration whether produced by a constant or varying frequency due to perceived muscle fatigue, thus completely ignoring and teaching away from the applicant's contribution to the art. In Murtonen, at least two transducers or speakers are used with the perceived vibratory effect being moved within the body through the use of these multiple transducers and the introduction of a signal phase difference between the pulses produced by the different transducers. This reference appears to have no application to the invention of the applicant.

As such, claims 1-3 and 6-8 are not anticipated nor rendered obvious by Murtonen, nor are claims 1-3 and 5-7 anticipated or rendered obvious by Skille.

Claim 4 stands rejected under 35 U.S.C. § 103 (a) as being unpatentable under Murtonen. Not only does Murtonen move the vibrational effect or stimulus by passing it from one transducer to another, he also specifically does not utilize a variation in amplitude from 0-120 decibels as called for in claim 4. In fact Murtonen specifically indicates as evidenced in claim 1 of his patent in

column 6, at line 57 that the intensity of vibration in each of the transducers varies between "maximum and minimum values other than zero..." As such, contrary to the comments of the examiner in paragraph 9 of her Office Action on page 4, this variation from 0-120 decibels is neither necessary or inherent from the prior art.

Claim 5 stands rejected under 35 U.S.C. § 103 (a) as being unpatentable under Murtonen in view of Skille. The arguments advanced as to the allowability of claim 1 and 4 apply to this dependent claim.

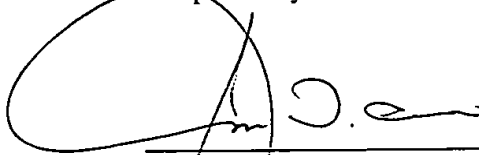
Accompanying this response are two Rule 132 Declarations from persons having ordinary skill in the art. The first Declaration is from the inventor Dr. Charles Butler and the second Declaration is from Dr. Concetta M. Tomaino who is a world wide expert specializing in neuropsychology and the use of sound or transducer energy as a therapy. Dr. Tomaino and Dr. Butler both declare the invention of at least claim 1 to be non-obvious.

### Summary

It is submitted that claims 1-8 are neither anticipated nor rendered obvious by Skille, Murtonen singly or in combination.

Filed with this response is a request for an extension to respond.

Respectfully Submitted

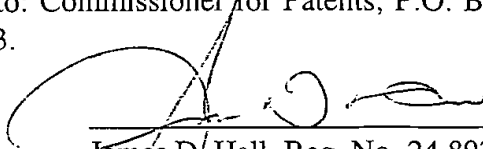
A handwritten signature in black ink, appearing to read 'J.D. Hall', is written over a horizontal line. The signature is stylized with a large loop at the beginning and a trailing flourish.

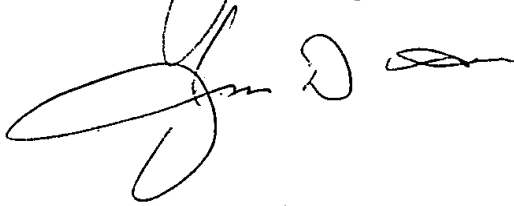
James D. Hall  
Reg. No. 24,893  
Botkin & Hall, LLP  
105 East Jefferson Blvd.  
Suite 400  
South Bend, Indiana 46601-1913  
Phone: 574-234-3900  
Fax: 574-236-2839  
Attorney for Applicant



Certificate of Mailing

I hereby certify that this correspondence is being deposited in the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on May 29, 2003.

  
James D. Hall, Reg. No. 24,893



RECEIVED  
JUN 10 2003  
TECHNOLOGY CENTER R3700